IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8525 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARJANBHAI SANGABHAI BHARWAD - Petitioner(s)

Versus

OFFICE OF THE MANAGING OFFICER - Respondent(s)

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Appearance :

MRS SANGEETA N PAHWA for Petitioner(s) : 1,
MR VM PANCHOLI, AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 20/10/2005

ORAL JUDGMENT

1. The petitioner has filed this petition under Article 226 of the Constitution of India, praying for to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside the contemplated

action of the respondents in evicting the petitioner and his family members from the land in question is ex-facie illegal, arbitrary, discriminatory, against the principles of natural justice and violative of Articles 14 and 19(1)(g) of the Constitution of India. The petitioner further prayed that the respondents be restrained from demolishing the construction made by the petitioner upon the said land and from taking any coercive measures, pending the admission hearing and final disposal of this petition.

2. The case of the petitioner is that he is residing in Survey No.8196 and Survey No.8198/A since last 25 years. It is further stated that the petitioner is having a business of selling milk and milk products since last 25 years and also keeps his animals in Survey No.8198/A which is in possession of the petitioner since last 25 years. The petitioner has produced a xerox copy of the map at Annexure “A” to the petition.

2.1 The petitioner respectfully states that on 21.12.1973 the Administrator of Sardarnagar Township Ahmedabad transferred the property no.8196 to the

petitioner by the notice on a condition that the petitioner should pay the sufficient amount as mentioned in the said notice. The petitioner respectfully states that in 1984 the Administrator of the Sardarnagar Township gave the deed of conveyance of the said property Survey No.8196 to the petitioner. It has been further stated that the petitioner pays municipal tax and electric bill of the said land. A copy of the bill is annexed at Annexure “D” to the petition.

2.2 It has been further stated that on 27.4.83 and on 19.9.90 the petitioner had made representations to the respondents for allotment of the land No.8198/A and requested to the respondents that as Survey No.8198/A is a big open plot and there is a concrete road near the said land so the said land be allotted him as 'stip of land'. It was further requested in the said representation that this open plot is adjoining land of the land occupied by the petitioner and his animals are kept for his business purpose in the said land and also his family members are staying in the house so the land should be allotted to him. The copy of the said representation is produced at Annexure “E” to the

petition.

2.3 It has been further stated that the respondents are threatening to evict the petitioner from the Survey No.8198/A despite the fact that the petitioner has made many representations to the respondents to the effect that he is ready to pay the required amount for acquiring the possession of the said land. It is further stated that the respondents are allotting the said land to other persons and not to the petitioner even though several requests have been made to the respondents.

2.4 The petitioner respectfully states that the petitioner has filed a civil suit before the learned Civil Judge (S.D.), Narol, which petitioner undertakes to withdraw. It is further stated that on 27.11.1991 the respondents alongwith other persons came to evict the petitioner without due process of law. It is apprehended by the petitioner that the respondents will at any amount evict the petitioner from the Survey No.8198/A. Hence the petitioner is constrained to file this Special Civil Application.

3. The prayers which are claimed by the petitioner cannot be granted. However, the respondent will not dispossess the petitioner without due process of law. The second request of the petitioner that his representation dated 27th April, 1983, may be considered. The respondents are directed to decide the representation dated 27th April, 1983, at Annexure “E” to the petition and will the decide the same within four weeks from the receipt of the writ of this Court or fresh representation, kindly and sympathetically.

4. With the aforesaid observations and directions, this petition is disposed of since it is premature. Rule is discharged to the aforesaid extent with no order as to costs.

(K.S. Jhaveri, J.)

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